New Jersey State Tax News

Summer 2000

inside

NYC Commuter Tax

In April 2000, the New York State Court of Appeals, the Empire State's highest court, ruled that New York City's income tax on the residents of New Jersey, Connecticut, and other commuting states is unconstitutional. Governor Whitman praised the New York Court's decision and sent a letter to New York Governor George Pataki urging him to take immediate steps to rebate to New Jersey commuters the estimated $80 million that has been unfairly collected since New Jersey took the matter to court.

Governor Whitman called the decision "a clear-cut victory for the 240,000 New Jerseyans who cross into New York City to work each day. This will provide a $110 million tax break for New Jerseyans who work in New York City," said the Governor.

New Jersey filed a class action lawsuit in June of 1999 challenging the constitutionality of the New York law that repealed the New York City commuter tax for New York State residents who live outside the City, but required other commuters who work in the City to continue paying the tax. A provision in the New York law states that if a court finds the law unconstitutional, the repeal of the commuter tax would apply to anyone commuting into New York City, regardless of where they live. ❑

GROSS INCOME TAX

NJ-500s Mailed Quarterly

As part of New Jersey's "One Stop Shopping" initiative, starting in June 2000 Monthly Remittance of Gross Income Tax Withheld forms (NJ-500) will be mailed to employers on a quarterly basis. The NJ-927/WR-30 packets issued to employers that file the single sheet WR-30 forms included the July and August NJ-500 forms with instructions and return envelopes. The September 2000 mailing will include the October and November NJ-500 forms in the NJ-927/ WR-30 packet. The December 2000 NJ-927/WR-30 packet mail-

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Important phone numbers

Call Center…….. 609-292-6400
Automated Tax Info…… 800-323-4400
…… 609-826-4400
Speaker Programs……... 609-984-4101
NJ TaxFax……... 609-826-4500

Alcoholic Bev. Tax……. 609-984-4121
Corp. Liens, Mergers, Withdrawels & Dissolutions…….. 609-292-5323
Director's Office…….. 609-292-5185
Inheritance Tax……... 609-292-5033
Local Property Tax……. 609-292-7221
Motor Fuels Tax Refunds... 609-292-7018
Public Utility Tax……... 609-633-2576

http://www.state.nj.us/treasury/taxation/

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ing will also include the annual Gross Income Tax Reconciliation of Tax Withheld, Form NJ-W-3, as well as the January and February NJ-500 forms, instructions and return envelopes.

Employers receiving the NJ-927/ WR-30 packages requiring the multi-sheet WR-30 will receive a separate quarterly mailing of the NJ-500 forms with instructions and return envelopes. The December 2000 mailing (January and February NJ-500 forms with instructions and return envelopes) will include the annual Gross Income Tax Reconciliation of Tax Withheld, Form NJ-W-3.

Employers who make their monthly payments via EFT are not to file Form NJ-500.

Information regarding the preparation of Forms NJ-927 and NJ-500 can be obtained by calling the Taxation Call Center at 609-292-6400 or by visiting our Web site at: **www.state.nj.us/treasury/taxation/** ❑

Online Business Registration

State Treasurer Roland M. Machold recently announced that new business registrations can now be completed online. Machold said, "Thanks to Governor Whitman's commitment to streamlining State services, we are able to offer this online business registration service as an alternative to filing in person or through the mail. This Internet-based filing option will help to both speed and ease the process of starting a new business."

"Governor Whitman has done a great deal to attract new businesses to the State. This new online filing alternative is another step in her commitment to make New Jersey not only a great place to operate a business, but an easier place to start one as well," added Machold.

The Online Business Registration service, which is administered by the Division of Revenue's Bureau of Business Services, will provide businesses with temporary sales tax certificates and will enable businesses to register for business taxes and employer contributions for unemployment and disability.

Patricia Chiacchio, Director of the Division of Revenue said, "In Fiscal Year 1999, the Bureau of Business Services processed 50,000 new business registrations. Now new businesses can fulfill their State filing obligations anytime, 24 hours a day, without having to visit a State office or wait for paperwork to arrive in the mail."

The Online Business Registration service can be found online at the NJ Business Gateway Services site at: **www.state.nj.us/njbgs** ❑

Robert Woodford Retires

Robert A. Woodford retired effective May 31, 2000 after 37 years at the New Jersey Business & Industry Association. Mr. Woodford joined NJBIA (formerly the New Jersey Manufacturers Association) in 1963 to pursue his lifelong interest in public policy. An attorney who worked in private practice for several years before joining NJBIA, Woodford graduated from the University of Connecticut and the University of Chicago Law School.

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nj.taxation@treas.state.nj.us

This publication is designed to keep taxpayers, tax practitioners and the general public informed of developments, problems, questions and matters of general interest concerning New Jersey tax law, policy and procedure. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for New Jersey tax laws and/or regulations.

Division of Taxation Director:
Robert K. Thompson

News Coordinators for This Issue:

Audit	Barbara Davidson
Compliance	Marita Sciarrotta
Criminal Investigation	Rosemary Tuthill
Property Admin.	Gary Amerine
Technical Services	Allette Wooley
	Ronald DeMarco

Contributors: Dorothy M. Aicher, Betty Ashton, Marlene Barnhart-Mohr, William Bittner, Maryann Cortina, Gary DalCorso, Susan Dobay, Sherry R. Dolan, Lee Evans, Joseph A. Flynn, David Gavin, Jeanne Gorrissen, Arthur J. Guenther, Denise Lambert, George Lorbeck, Terry McWilliams, John Metzger, Risa Morris, Sara E. Murphey, Donald A. Panfile, Patrick J. Ryan, Carol M. Trovato.

Editor: Linda B. Hickey

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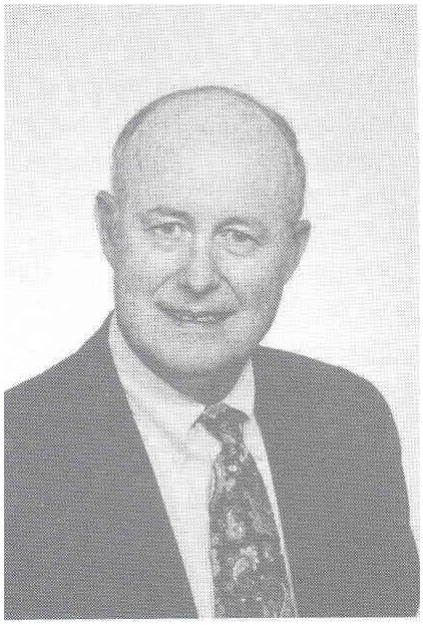

The New Jersey Business & Industry Association, founded in 1910, is a statewide employer association of over 16,000 members representing every industry in the State. NJBIA keeps its members informed about changes in laws and regulations affecting New Jersey businesses, and NJBIA lobbying staff testify frequently before the Legislature and State agencies to advocate for the interests of business.

Mr. Woodford has long worked, as a member of NJBIA's Tax Committee, to support New Jersey businesses and to make them more competitive by developing and advocating for legislation that promotes tax equity. Over the years he has been involved in many important tax issues affecting New Jersey businesses, including the taxation of business personal property and the development of the sales and use tax.

During the Whitman Administration, Mr. Woodford supported the legislation which provided business incentives for New Jersey businesses in the form of tax credits for research and development expenditures, and new jobs investments, among others, as well as the legislation which provided tax benefits for small, New Jersey-based high technology companies.

Mr. Woodford served as NJBIA's corporate secretary for 14 years. In addition, he has both served on and testified before a number of State tax policy commissions.

Commenting on Mr. Woodford's retirement, Robert K. Thompson, Director of the Division of Taxation said, "Bob was a good friend to the Division of Taxation and worked hard to keep the relationship between our two organizations mutually beneficial. I will miss him as a colleague and a friend, but will continue to look forward to working with NJBIA with the same enthusiasm that we have had all along." ❑

GROSS INCOME TAX

Working in NJ Home for NY Employer

The State of New York will impose New York income tax on earnings derived by a New Jersey resident with respect to work performed at home for a New York employer. As the New Jersey activities are undertaken in connection with the New York employer, the New York Department of Taxation and Finance deems that those earnings are properly subject to New York income tax. The following discussion deals with some of the reasons for this treatment.

Often, in matters involving multistate taxation, the states adopt balancing tests to determine which state has the more compelling interest in the income or transaction at issue, and so, may be treated as the taxing state. Thus, for example, an employer's home state is treated as the taxing state for corporate income tax purposes unless the employer has a "regular place of business" in another state. In that case, the employer may allocate its income away from the home state and to the other state for those purposes. N.J.S.A. 54:10A-6. The "regular place of business" must be actually "maintained, operated and used" by the employer. N.J.A.C. 18:7-7.2(a). Thus, the employer must have a substantial presence at that place; in that regard, an employee's home office simply reflects the employee's location, not the employer's. An area selected by the employee in the employee's home for use as an office remains merely a room within the employee's home regardless that it is being used by the employee on the employer's behalf. The only connection between the employee's home office and the employer is that the employee works at home. That connection is simply too ephemeral to treat the employee's home office as a "regular place of business" of the employer. *Hoeganaes Corp. v. Director, Division of Taxation*, 145 N.J. Super. 352, 359 (App. Div. 1976). Accordingly, an employer is not allowed to allocate income away from its home state and to another state based solely on its employee's use of a home office in the latter state.

Determining whether the employer's home state may tax the earnings of an out-of-state employee paid with respect to work performed at home also involves that balancing test. In this situa-

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tion, the focus of the employee's work is to continue the job that had been performed at the employer's home state location. It is also done with a view to returning to that location. *Carpenter v. Chapman*, 97 N.Y.S. 2d 311, 313 (App. Div. 1950). Furthermore, it is immaterial to the employer where the employee performs the services, as long as the task is accomplished. As a factual matter, the employee's services are only complete when the results are delivered to the employer's office. *Colleary v. Tully*, 415 N.Y.S. 2d 266, 268 (App. Div. 1979). Accordingly, the out-of-state employee's home office is too slight a break with the employer's business location to relieve the employee from tax liability to the employer's home state. Cf. *Speno v. Gollman*, 45 N.Y. 2d 256, 360 N.Y.S. 2d 855, 858-859, 319 N.E. 2d 180 (Ct. App. 1974).

That analysis, and consequent result, promotes administrability of the income tax, which benefits both employers and state governments. Employers would encounter costly and difficult compliance problems should they be required to withhold tax for every jurisdiction in which an employee performed services on a de minimis basis. Should the employer have multiple employees working at home in various states for health reasons and for varying periods of time, the employer, and each state's taxing agency, would be required to track and verify all the various withholding returns and tax payments. This is not a burden that should be readily imposed on employers. Allocating the income to the employer's home state thus "serves to protect the integrity of the apportionment scheme by including income as taxable where it results from services substantially connected with" the taxing state. *Colleary v. Tully*, supra, at 268. Accordingly, in these circumstances, income is taxed by the state that has the primary connection with the services that are being rendered. ❑

SALES AND USE TAX

Casual Sales

The warmer months are times when people clean out their attics, closets, and garages. Some decide to sell their old or used items in a yard sale while others decide to see how they can do in a more mercantile atmosphere. Since New Jersey has many flea markets throughout the State, a person may hope their venture at a public venue would prove to be more lucrative than setting up a table in front of their home.

Most people know that making isolated or occasional sales of personal property that was purchased by the individual for their own use is considered to be a casual sale and is not subject to sales tax. However, some individuals making these types of sales are presumed to be in the business of making retail sales and, therefore, are required to be registered with New Jersey and to charge, collect, and remit New Jersey sales tax.

The following are important points in determining if a sale is deemed to be a "casual sale" or not:

- The owner of the property to be sold in a casual sale must be a person who is not engaged in the business of selling that kind of property at retail (e.g., a computer salesperson selling old display racks).
- The property to be sold in a casual sale must be the property purchased by the owner for his/her own use, not property purchased tax-free with the intention of resale (e.g., a carpet dealer who purchases a new desk and chair for use in his showroom and sells the old furniture).

The owner of the property sold in a casual sale may commission a sales agent to act on his/her behalf during the casual sale, whether or not such sale will be held by auction. A sales agent is required to impose and collect sales tax:

- When the property is removed from the premises of the owner for sale at another location in New Jersey (i.e., a flea market, auction house, shop, etc.).
- Whenever such property was purchased by the owner for resale (whether or not the property is removed to another location in New Jersey for sale).

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Interest 11.50% for Third Quarter

The interest rate assessed on amounts due for the third quarter of 2000 is 11.50%.

The assessed interest rate history for the last eight quarters is listed below.

Effective Date	Interest Rate
10/1/98	11.50%
1/1/99	10.75%
4/1/99	10.75%
7/1/99	10.75%
10/1/99	10.75%
1/1/00	11.50%
4/1/00	11.50%
7/1/00	11.50%

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Keep in mind that sales of boats and motor vehicles, whether or not an individual is selling one that was purchased for his/her own use, are always taxable. The sales tax is paid at the time of registration. ❑

GROSS INCOME TAX

S Corporation Distributions

A practitioner recently posed this question to the Division: How does a New Jersey resident report a distribution from an S corporation?

For New Jersey gross income tax purposes, the taxability of a distribution from a Federal S corporation that has made a New Jersey S corporation election is governed by the priority system established in IRC Sections 1368 and 1371 and must be calculated after the close of the S corporation's tax year. The taxpayer must, however, use their New Jersey adjusted basis and their New Jersey AAA and E&P when determining the taxability of a distribution.

A distribution from a "hybrid" corporation must be allocated based on the corporation's New Jersey allocation factor, to both the income earned inside New Jersey and the income earned outside New Jersey. A "hybrid" corporation is a Federal S corporation that has not made a New Jersey S corporation election and the corporation conducts business both inside and outside of New Jersey. Distributions applicable to income earned inside New Jersey are considered taxable distributions from a C corporation (provided there is sufficient accumulated earnings and/or current period earnings) and are reportable by a resident shareholder as dividends. IRC Sections 1368 and 1371 govern the taxability of distributions applicable to the income earned outside New Jersey.

A distribution from a Federal S corporation that has not made a New Jersey S corporation election and allocates 100% inside New Jersey is taxable as a dividend to the New Jersey resident provided the S corporation has sufficient accumulated earnings and/or current period earnings.

A distribution made to a nonresident shareholder is not taxable for New Jersey gross income tax purposes. However, if the nonresident shareholder has income from other New Jersey sources, the taxpayer will have to report any taxable portion of their distribution in Column A, Form NJ-1040NR, as if they were a resident.

Further information can be found concerning S corporation distributions by contacting the Division at 609-292-6400 and requesting a copy of Tax Topic Bulletin GIT-9S, *Income from S Corporations*. This publication can also be viewed or downloaded from the Internet by accessing the Division's home page at:

www.state.nj.us/treasury/taxation/ ❑

CORPORATION TAX

Investment Companies

Pursuant to N.J.S.A. 54:10A-5(d) corporations meeting the definition of an investment company receive preferential tax treatment. Their tax liability is based only upon 25% of their income with a $250.00 minimum tax.

Investment Company means any corporation:

1. Whose business consists of at least 90% of "qualified business activities."
2. Who had 90% or more of its average gross assets in New Jersey, measured at cost, invested in "qualified investment assets."
3. Which meets the numerical three part business test as defined in Regulation 18:7-1.15(f).
4. Which is not a banking corporation.
5. Which is not a financial business corporation.
6. Which is not a merchant or dealer in stocks, bonds or other securities and which regularly engages in buying and selling such securities to customers.

"Qualified business activities" are measured by gross receipts and expenses as reported for Federal income purposes on a separate entity basis and include investing or reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights, and other securities or the holding thereof after investing or reinvesting for its own account.

"Qualified business assets" are measured by the taxpayer's assets as reported for book purposes at cost on a separate legal entity basis for balance sheet purposes and consist of stocks, bonds, notes, mortgages, debentures, patents, patent rights, other securities and cash on deposit.

The following activities are not considered "qualified investment activities":

- Making and/or negotiating loans
- Renting or leasing real or tangible personal property

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- Investment in partnerships or limited liability companies
- Direct day-to-day management of operations of affiliated corporations or the actual provision of services directly or as an intermediary, for benefit of an affiliate
- Buying and/or selling of stocks, bonds, notes, or other securities for customers
- Buying and/or selling of real or tangible personal property whether it is classified as inventory, operating assets or capital assets
- Direct investment in collectibles, including but not limited to stamps, pottery, cars or gold coins
- Direct investment in trademarks or similar assets. ❑

Copying Returns Causes Errors

It has come to the Division of Taxation's attention that a number of tax practitioners are photocopying business tax returns and remittance forms for those clients who, for various reasons, do not have a return or remittance form of their own for an applicable tax period. The majority of the photocopying that we have found is for sales and use tax and gross income tax withholdings.

The practitioners are photocopying a form that belongs to another client, making changes to the copied return to reflect the remitting taxpayer's name and identification number. *However, the altered returns still reflect the identification number of the original taxpayer in the "scan line" of the form.*

Since the majority of sales tax and employer's gross income tax forms are scanned, the returns and remittances are processed to the wrong taxpayer's account. If the original taxpayer has a return already posted to the account, the altered return does not complete processing and is rejected for review by the Division of Revenue's Transaction Audit section. In the case of an employer's gross income tax consolidated quarterly reconciliation, Form NJ-927 or NJ-927-W, the wrong UI/DI rates may be reflected if an altered return is used.

The time and effort required to straighten out these accounts is a burden not only to the Division of Taxation and the practitioners, but is frustrating to the taxpayers as well, who think that they have properly filed and paid.

If a taxpayer does not receive a remittance form or return, the needed form may be obtained by contacting the *Tax Registration Section of the Division of Revenue at 609-292-1730.*

If, because of time constraints, the taxpayer will not receive the needed form in order to file by the due date, an informal filing can be made by cover letter. This letter should indicate the *taxpayer's identification number, the tax type, tax period, tax calculation, and include a check for any tax due.* This cover letter should also include a request for the proper forms and returns. ❑

Small Business Workshops

The New Jersey Division of Taxation and the IRS periodically conduct free workshops designed to help small businesses better understand their tax obligations. These seminars are held from 9 a.m. to 4 p.m. at various locations throughout the State. The New Jersey portion of each workshop is presented in the afternoon and covers the following topics:

- Types of business ownership and the tax consequences of each type
- Registering with the State of New Jersey
- Employer responsibilities
- Reporting business income
- What's taxable and what's exempt from New Jersey sales tax
- Filing sales and use tax returns

Seating is limited so if you plan to attend one of the fall sessions listed below, please contact the IRS to register: via fax at 973-645-6691 or via e-mail at **Valerie.C.Carter@irs.gov**

For additional information on these and other specialized workshops call our Technical Education Unit at 609-984-4101 or John Kelly at 609-292-7203.

Fall 2000 Schedule

September 15	Union
September 22	Paramus
September 29	Newark
October 5	Trenton
October 6	New Brunswick
October 12	Washington
October 18	Jersey City
October 20	Lincroft
October 27	Camden
November 3	Cape May
November 17	Camden
December 8	Union
December 15	Camden

❑

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Compliance Award Program

On March 15, 2000, Director Robert K. Thompson, Deputy Director Harold E. Fox, and Assistant Director David M. Gavin distributed 27 awards recognizing employees that made outstanding contributions to the Compliance Activity and the Division of Taxation. Twenty Compliance employees and six employees from areas outside of the Compliance Activity were honored with Compliance Achievement Awards. One Compliance employee received the Exemplary Employee Award.

Compliance Achievement Awards were given to employees in recognition of specific contributions to the Division such as serving on special projects or committees, accomplishments, suggestions, dedication/loyalty, leadership, or general work ethics. The Achievement Award recipients were:

Freddie Baez, Amber Billak, Erudina Colon, Nick DiGrazio, Kevin Dolan, Michael Giacobbe, Jane Andrea Hazard, Debbie Janowski, Lorraine Larsen, Fred Limone, Sandra Maciel, Gerald Mangine, Brian O'Connell, Joan Petrino, George Sipars, Sherry Scheingold, Janice Eckstein, Laurel Stokes, Anne Wysocki, Marcia Rosen, Ronald Stubbs, Robert Morton, Maryanne Cortina, Steve Itell, Marita R. Sciarrotta, and M. Thomas Hope.

The Compliance Exemplary Employee Award was given to Investigation Branch Regional Manager Michael Nolan to recognize his individual initiative, excellence, and his overall contribution to the Investigation Branch, and the Division of Taxation.

The annual Awards program is another avenue for senior Division management to recognize positive accomplishments of employees within the Compliance Activity. Nominations for either of these awards are submitted on a Compliance Award Program Nomination Sheet to the Assistant Director, Compliance. Peers as well as supervisors can make nominations, and an informal award ceremony is held on an annual basis. ❑

LOCAL PROPERTY TAX

Harris Adams Retires

Harris J. Adams, Chief of the Policy and Planning Section of Property Administration, has retired from State service effective July 1, 2000.

Harris James Adams, Jr. began his career at the Division of Taxation in April 1968 as a field representative with the Local Property Branch. He became Chief of the Appraisal Section in 1975. In 1997 he became Chief of the Policy and Planning Section of the newly restructured Property Administration Activity. The Section's duties include the C.T.A. Examination, Property Administration Work Calendar, Farmland Assessment, County Tax Board compliance, revaluation contract approval and project review, Division comment on proposed legislation, realty transfer fee, veteran and senior citizen property tax deduction certifications, and taxpayer correspondence.

Best wishes to "Butch" and his entire family for a wonderful and fulfilling retirement. ❑

LOCAL PROPERTY TAX

Exclusion of Sales from Table

It is long-standing policy of the Division of Taxation to exclude sales of real property from the Table of Equalized Valuations ("Director's Table"), the assessed values of which are not representative of the assessing practices of the municipality.

Nonusable category 26 refers specifically to transactions not between a willing buyer or a willing seller. However, as has been long recognized by the courts and in the Division of Taxation's Assessors Handbook (Exhibit X-9r), category 26 is very broad in scope, and serves as a "catch-all" category. The courts have recognized that, as a catch-all, category 26 provides the basis under certain circumstances for excluding sales that fail to establish a comparative relationship between the assessed value and selling price, and which are not representative of the assessing practices of the municipality, even where the sale may be between a willing buyer and willing seller.

In both *Cranbury Township v. Middlesex County Board of Taxation*, 6 N.J. Tax 501 (Tax 1984), *aff'd.* 7 N.J. Tax 667 (App. Div. 1985), and *Northvale Borough v. Director, Division of Taxation*, 17 N.J. Tax 204 (Tax 1998), *aff'd.* 324 N.J. Super. 518 (App. Div. 1999), *certif. den*. 161 N.J. 147 (1999), the courts upheld the exclusion of a sale under nonusable category 26 even where the sale was recognized to be between a willing buyer and willing seller. In *Cranbury,* a sale was excluded because the property was receiving

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preferential farmland assessment, and was therefore not representative of the assessing practices of the municipality. In *Northvale*, a sale was excluded because the assessment resulted from application of the Freeze Act rather than from the unfettered discretion of the assessor, and was therefore not representative of the assessing practices of the municipality.

It is similarly the Division of Taxation's policy to exclude an otherwise usable sale under nonusable category 26 in those circumstances where the sale's ratio of assessed value to selling price is grossly distorted as compared to the ratios of the other sales in the municipality. In such cases, the sale is excluded even where there is no reason to question the willingness of the buyer or seller. Such a sale is excluded because the assessed value is deemed not representative of the assessing practices of the municipality. This longstanding practice was recognized and upheld by the Court in *Borough of Sayreville v. Middlesex County Board of Taxation*, unpublished, Appellate Division Docket No. A-1314-71, decided December 6, 1972, and by the former Division of Tax Appeals in *Borough of Roosevelt v. Director of Division of Taxation*, unpublished, Division of Tax Appeals Docket No. S.A. 1-77, decided January 30, 1978. More recently, the Tax Court upheld the practice in a bench opinion in the *Borough of Englewood Cliffs v. Director, Division of Taxation*, Tax Court Docket No. 007053-1998, judgment entered February 1, 1999, appeal pending. Copies of these opinions are available on request from the Division of Taxation.

Municipal assessors play an essential role in assisting the Division of Taxation in determining which sales to exclude from the school aid table, in accordance with their responsibilities under N.J.A.C. 18:12A-1.17. In order to ensure an accurate and meaningful average ratio and equalized value as reflected in the school aid table, it is critical that municipal assessors make every effort to assist the Division of Taxation in excluding those sales with grossly distorted ratios which are not representative of the assessing practices of the municipality. The mistaken inclusion of such sales can result in dramatic and unwarranted increases or decreases in average ratios and equalized valuations from year to year, which can impede the prosecution or defense of tax appeals and skew the apportionment of county taxes. The following are guidelines to assist in determining whether a sale's ratio of assessed value to selling price is so grossly distorted that it warrants exclusion under nonusable category 26.

It is difficult to delineate any specific formula that is applicable in all instances. The procedure utilized by the Division of Taxation consists of a review of sales within a taxing district. A good example of a sales transaction that would be excluded from the Table is one that the Division finds, through its analysis, to have a grossly distorted sale ratio, widely disparate from the cluster of all other transactions within the municipality. Just one sale on the fringes of a cluster would not warrant exclusion. Absent strong evidence to exclude a sale, that transaction should be included in the Table. The Division of Taxation typically completes this analysis at the end of the sampling period each year when the complete listings of sales, called "grantor listings," become available.

The first step in the sales analysis involves the viewing of the subject sale in the context of all other sales transactions within the same property class. Still further comparison with nonusable sales within the same class is the next phase of analysis. Finally, comparisons are then made with usable and nonusable sales in other property classes. If further analysis is warranted, the same procedure is used for sales transactions in prior years but should not extend beyond the last revaluation. This practice is followed equally in all cases of nonrepresentative sales, whether the assessment-to-sales ratios are either very high or very low. Sales from five years ago carry less import than sales occurring in current years. Similarly, usable sales have greater weight than nonusable sales.

The exclusion of transactions with grossly distorted ratios from the Sales Ratio Study as not representative of the Assessment Practice is based upon a comparison of the range of sales in the municipality with the sale considered in this capacity. If there are sales with assessment-to-sales ratios near or above or below the sale being considered for exclusion, the ratio will be considered as a reasonable reflection of the assessment practices in the taxing district. Where there are few or no sales in the property class being reviewed, an analysis of all classes of property for multiple tax years will become necessary. A limited review of

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nonusable sales can provide additional insight into whether a particular sales ratio is grossly distorted as compared to the norm within the taxing district. Of course, not all nonusable sales are helpful. Nonusable categories 6, 7, 10, and 26 are most likely to provide useful data. Whenever there are multiple transactions in the current year as well as the prior years, a review of the high/low ranges will identify a pattern of ratios. If the subject sale is in the range, whether it is at the low end or high end for the purposes of determination under this category, it is a usable sale. If all other sales cluster around the common level in the municipality, but one transaction has a grossly distorted assessment-to-sales ratio, and sales from prior years have reflected only clustered sales, the Division has made a credible case for excluding that sale from the Table as not reflective of the assessing practices of the taxing district. ❑

LOCAL PROPERTY TAX

County Tax Board Members Confirmed

In 1999, the Senate confirmed 18 appointments made by Governor Whitman of members to county boards of taxation. Names of the individuals and the dates of confirmation follow:

Atlantic County
Marvin E. Embry 6/21/99

Burlington County
John L. Aloi 5/24/99
Margaret M. Nuzzo 5/24/99

Hunterdon County
Joann R. Boehm 6/21/99
Harrie E. Copeland, III 7/01/99
Michael G. Morris 11/15/99

Middlesex County
Michael E. Lachs 6/21/99
Arthur M. Haney 6/21/99
Victor P. DiLeo

Monmouth County
James P. Casey 1/12/99
Annie W. Grant 2/25/99

Morris County
Michael D. DiFazio, DC 7/01/99

Ocean County
Richard E. Hall 6/21/99

Salem County
Robert J. Buechler, III 6/21/99

Somerset County
William L. Linville 6/21/99
Albert R. Palfy 6/21/99

Union County
Peter B. LiJoi 9/30/99
Christine M. Nugent, Esq. 11/15/99
❑

LOCAL PROPERTY TAX

Tax Assessors' Calendar

July 1–

- Disallowed property tax deduction recipients, granted an extension, required to pay deduction previously granted. If unpaid, become real property liens.
- MOD IV Master file sent to Property Administration via magnetic tape.
- Assessor to mail form to claim a continuance of valuation under the Farmland Assessment Act for the tax year 2001 together with a notice that the completed form must be filed with the assessor by August 1, 2000 to each taxpayer whose land was assessed for tax year 2000 under the Act.

2nd Tuesday in July–

- State Equalization Table prepared.

August 1–

- Owners of farmland must file an application (Form FA-1) with the assessor to have land assessed under Farmland Assessment Act.

August 5–

- All SR-1A forms showing information to be used in compiling the 2000 Table of Equalized Valuations for State School Aid to be received by Property Administration.

August 15–

- County Board of Taxation Presidents to annually file a report to the Director, Division of Taxation.

August 25–

- Completion of State Equalization Table by Director, Division of Taxation.

September 1–

- Extension to file Form FA-1 where assessor has determined failure to file by August 1 was due to illness of the owner, death of the owner or an immediate member of the owner's family.

- Tangible business personal property returns (Form PT-10) of local exchange telephone, telegraph and messenger systems companies, with respect to tax year 2001 and thereafter, to be filed with the assessor for the taxing district in which the said property is located.

- Petroleum refineries file tangible business personal property returns (Form PT-10.1) with assessor for tax year 2001, for machinery, apparatus, or equipment directly used to manufacture petroleum products.

September 13–

- Table of Aggregates transmitted within three days to Taxation and Local Government Services Directors, State Auditor, municipal clerk, and clerk of board of freeholders by County Boards of Taxation.

September 15–

- Assessor to file statement of taxable value of State-owned real property with Taxation Director. ❑

Criminal Enforcement

Criminal Enforcement over the past several months included:

- On January 6, 2000, Governor Whitman signed the Grey Market Legislation into law. This law forbids the stamping, possession, sale and transportation of "export" cigarettes brought into the United States after January 1, 2000. As a result of enforcement actions and the impact of this legislation, Stogies Distributors, Inc. of Ridgefield, New Jersey has surrendered its distributor license and returned all unused stamps for a refund. Stogies had plead guilty in Ridgefield Municipal Court for violations related to shipping New Jersey tax indicia to an out-of-State location to stamp Grey Market cigarettes. This action is the final chapter in the Office of Criminal Investigation's efforts to control the Grey Market cigarette activity by Stogies.

- Sixty-five (65) complaints alleging tax evasion were evaluated from January to March 2000.

- From January to March 2000, 52 charges were filed in municipal court on 16 cases for violating the cigarette tax law including possession of 133.3 cartons of contraband cigarettes, valued at $4,700 and resulting in 12 arrests. Also during this period, 9 cases were heard in various courts throughout the State resulting in a 100% conviction rate and in the award of 3,623.1 cartons of cigarettes valued at $129,000 to the State of New Jersey. ❑

Tax Briefs

Corporation Business Tax

IRC 1031 — N.J.A.C. 18:7-5.4(a)1 provides that "No adjustment to Federal taxable income is permitted under this rule for: [g]ains or losses not recognized for Federal income tax purposes under Section 351 or similar sections of the Internal Revenue Code…." Line 28 of the CBT-100, Schedule A, is prima facie equal to Line 28 of Federal Form 1120. In general, the State of New Jersey will follow the Federal principle of deferral contained in IRC 1031. However, it should be noted that the Director does have authority to modify a taxpayer's accounting method in a particular case to determine the year or period in which any item of income or deduction shall be included. N.J.S.A. 54:10A-4(k)(3).

Corporation Business Tax/ Gross Income Tax

Nonrecognition of Conversion of Common Trust Fund; CBT, TGI; IRC 584(h) — The Division responded to an inquiry about the New Jersey tax treatment of common trust fund conversions under the New Jersey Gross Income Tax Act and the New Jersey Corporation Business Tax Act in the following circumstances:

Taxpayer is a bank that manages trust assets through fiduciary account assets. For business reasons, taxpayer intends to convert its common trust fund assets (as defined in Internal Revenue Code Section 584(a)) into new or currently existing regulated investment companies (mutual funds) as defined in Internal Revenue Code Section 851(a). Each transaction, which will be structured to qualify as a tax-free conversion for Federal income tax purposes under section 584(h), will encompass the following steps:

1. *Transfer of substantially all common trust fund assets into one or more regulated investment companies solely in exchange for shares of the regulated investment company(s);*
2. *Distribution of regulated investment company shares to common trust fund participants solely in exchange for their interests in such common trust fund.*

The inquirer was advised that for calculating entire net income for New Jersey corporation business tax purposes, subsection N.J.S.A. 54:10A-4(k) provides that "entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal income tax." N.J.A.C. 18:7-5.2. Thus, if taxpayer has no Federal income as the result of this conversion, it would also have no income for State purposes attributable to the conversion. Schedule A, Line 28 of the New Jersey CBT-100 should, in general, conform to Line 28 of the Federal 1120.

Similarly, for New Jersey gross income tax purposes N.J.S.A. 54A:5-1c provides that "the term 'net gains or income' shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax purposes." Thus, where no gain or loss is recognized for Federal purposes with respect to such transactions, no gain or

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Enforcement Summary Statistics

First Quarter 2000

Following is a summary of enforcement actions for the quarter ending March 31, 2000.

• Certificates of Debt:		• Jeopardy Seizures	0
Total Number	1,658	• Seizures	31
Total Amount	$35,285,681	• Auctions	5
• Jeopardy Assessments	54	• Referrals to the Attorney General's Office	683

For more detailed enforcement information, see our Home Page at: **http://www.state.nj.us/treasury/taxation/**

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loss would be recognized for New Jersey gross income tax purposes relative to the transactions.

Accordingly, in conclusion, where a conversion of a common trust fund follows the nonrecognition provisions of IRC 584(h) for Federal purposes, no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange under either the New Jersey Corporation Business Tax Act or the New Jersey Gross Income Tax Act.

Gross Income Tax

Withholding — Under the New Jersey Gross Income Tax Act, the taxpayer may request the payor of pension and annuity income to withhold State income tax from disability or retirement benefits. N.J.S.A. 54A:7-1.1. This provision applies to all payers of pensions and annuities, both private and public, and to all payments, including lump-sum distributions.

The recipient of a pension or annuity must make a request in writing to the payor for the amount to be withheld on Form NJ-W-4P, Certificate of Voluntary Withholding of New Jersey Gross Income Tax from Pension and Annuity Payments. Form NJ-W-4P is contained in the employers' instruction booklet, Form NJ-WT.

The amount of State income tax withheld from pension or annuity payments must be a minimum of $10.00 per payment period or an even dollar amount greater than the minimum as specified by the recipient of the pension or annuity. The amount withheld may be changed or terminated upon request by the recipient. The withheld amount must be reported on and remitted with Forms NJ-500, NJ-927 or NJ-927-W. The total annual amount of tax withheld from pension and annuity payments (as reported on Form 1099-R) should be included on Form NJ-W-3, Reconciliation of New Jersey Gross Income Tax Withheld. Copies of all pertinent 1099-R forms must be included with the reconciliation package.

NJ Form 1099 Reporting Questions — N.J.S.A. 54A:8-6 states that all persons paying interest, dividends, rents, salaries, wages, premiums, annuities, compensation, remuneration, etc. must file a copy of the Federal information return Form 1099 with New Jersey. The New Jersey requirements for filing Form 1099 information returns are stated pursuant to N.J.A.C. 18:35-8.1(c). This regulation requires that copies of *all* Forms 1099 submitted to the Internal Revenue Service for the full calendar year must be provided to New Jersey for amounts credited to recipients of $1,000 or more. These information returns, in the order of preference, may be filed by submitting a copy of the magnetic tape provided to the IRS edited to delete any recipients earning less than $1,000, a copy of the magnetic tape provided to the IRS without deleting recipients earning less than $1,000, all copies of Forms 1099 of recipients earning $1,000 or more as either additional carbons or photocopies, or copies of all Forms 1099 submitted to the IRS.

For New Jersey purposes, employers and other withholders of New Jersey income tax must also file a Gross Income Tax Reconciliation of Tax Withheld, Form NJ-W-3. However, payers of pensions and annuities should only enclose copies of Form 1099-R with Form NJ-W-3 if New Jersey income tax was withheld from such payments.

Taxpayers, as clarified in the *New Jersey State Tax News*, Winter 1998 issue, only need to furnish 1099s along with their NJ-1040 return if New Jersey gross income tax withholdings are reported to ensure proper credit of those withholdings. Other 1099s should be retained with the copy of their return and provided to the Division if and when questions arise about the information reported on the return. It should be noted, however, that when backup material is furnished with the NJ-1040 return, especially when Federal and State income amounts differ, a review of information supplied with the return is often enough to explain the variance without requiring an audit of the return. Thus, it is also recommended that taxpayers submit copies of all Forms 1099 submitted to the IRS.

Sales & Use Tax

Barter Transactions — The Division responded to an inquiry regarding the sales and use tax treatment of barter transactions conducted by members of a barter club or association.

The facts indicated that the club management acts as a broker for member businesses by matching up members who have goods or services to barter. It charges a 10% fee to the party that it deems to be the "buyer." This fee is for the club's administrative service and is

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not subject to sales or use tax. The goods and services bought and sold in the barter transactions include both nontaxable items, e.g., airline tickets, professional dental services, carpet cleaning services, and taxable items, e.g., flowers, copy machines, automobile repair services, restaurant meals.

A transaction in which one party provides its goods or services in exchange for the goods or services that it wants to receive clearly constitutes a "purchase" and a "sale" within the meaning of the Sales and Use Tax Act. These terms are defined in the act as:

> Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor. N.J.S.A. 54:32B-2(f).

"Sale" or "purchase" as defined in this provision explicitly includes "barter," and the goods or services given in exchange for the goods or services received constitute the requisite "consideration." The two parties to a barter transaction function as both "buyer" and "seller"; the goods and services exchanged serve, in turn, as both the items sold and the consideration paid.

When the "seller" of taxable goods or services sold in a barter transaction is a New Jersey vendor (i.e. a vendor who has sales tax nexus with New Jersey, or a vendor without nexus who has voluntarily chosen to register as a vendor in this State), then the seller should collect and remit sales tax calculated on the normal retail value of the item sold, assuming that the purchaser cannot claim a valid statutory exemption (e.g., resale, exempt organization, production equipment, farm production use). The normal retail value is the price, in dollars, at which merchandise or services of the same kind are offered for sale by him to retail customers paying by traditional means (money). For example, a lighting store and a plumber may enter into a barter transaction in which the store provides the plumber with a lighting fixture in exchange for the plumber's repair services. The plumber, who normally charges $50 per hour for this work, provides an hour and a half of labor in exchange for the lighting fixture, which is retail priced at $75. Both the plumber and the lighting store will owe $4.50 tax on their respective purchases. The plumber must report the $75 sale of services in his gross receipts on the ST-50 and remit $4.50 on the sale; the lighting store must report the sale of the $75 fixture in its gross receipts on the ST-50 and remit the $4.50 collected from its customer (the plumber). The same lighting store may decide to barter with a barber. In exchange for a lamp sold for a retail price of $30, the three co-owners of the lighting store are given haircuts, which the barber normally gives for $10 each. The barber should be charged $1.80 tax for the lamp. However, the lighting store will not be liable for sales or use tax, because the haircuts are a nontaxable service.

If the seller is an out-of-State vendor, not registered in New Jersey, who delivers taxable merchandise to a New Jersey customer in a barter transaction, then the New Jersey customer will be liable for compensating use tax. The New Jersey customer will owe the tax on the value of the consideration that it paid. This consideration will consist of the goods or services that it gave to the seller, in lieu of money. For example, an accountant in New Jersey may want a Pennsylvania carpenter to make him a bookcase. The accountant prepares the carpenter's income tax return, while the carpenter delivers a bookcase to the accountant, as payment for the accounting services. The accountant would normally charge $300 for the tax return. He is deemed to have paid $300 for the bookcase, and will therefore owe $18 use tax on this piece of furniture, payable with his ST-18B after the close of the year.

New Version of ST-5 Certificate — When a nonprofit organization applies and qualifies for exemption from New Jersey Sales and Use Tax, the qualified exempt organization is sent an ST-5 Exempt Organization Certificate that has the organization's name, address and exempt organization number preprinted on it. In early March, the Division of Taxation instituted an ST-5 certificate that is a one-sided form with the instructions printed on the bottom half of the front of the certificate. (The back is blank.)

The new ST-5 Exempt Organization Certificate also has wording in a box at the bottom that states:

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"ST-5A PERMIT – This Exempt Organization Certificate (ST-5) also serves as an Exempt Organization Permit (ST-5A) for the organization to which the certificate is issued." That language was added to the certificate because the Division has stopped issuing the ST-5A permit to exempt organizations. Organizations approved for exempt organization status will now receive only the ST-5 Exempt Organization Certificate as proof of exemption, instead of both a certificate and a permit.

These ST-5 changes were necessitated because of a project to enable computer printing of the ST-5 certificate, which will allow the Division to send organizations their certificates much more quickly than previously.

The former two-sided version of the ST-5 is still valid for those organizations that were issued an ST-5 certificate by the Division of Taxation prior to April 2000. Exempt organizations having a valid prior version of the ST-5 do *not* need to obtain a new one as long as the ST-5 has the signature of a Director of the Division of Taxation.

Pretzel Sales — A taxpayer recently inquired concerning the taxability of freshly baked pretzels sold "hot" for either on or off-premises consumption.

N.J.S.A. 54:32B-3(c) of the Sales and Use Tax Act states that sales of food in an unheated state of a type commonly sold in the same form and condition in food stores, other than those principally engaged in selling prepared foods, are granted the sales tax exemption in this State.

This exemption is limited to food sold in an unheated state and it is the vendor's method of merchandising that determines whether food and drink is sold either in a heated or unheated state. Food that is served to the customer or maintained at a temperature which is warmer than the surrounding air temperature by using heat lamps, warming trays, ovens or similar devices, or is cooked to order, is deemed heated and sales are taxable for both on and off-premises consumption. See N.J.A.C. 18:24-12.1 et seq.

Sales of Lip Coatings — Chap Stick and similar lip coatings, with or without coloring, are deemed to be "cosmetics," and are therefore taxable tangible personal property under N.J.S.A. 54:32B-3(a). These products are commonly used by healthy persons who have no ailments affecting their lips. It is our understanding that they are used to maintain the softness of healthy lips, similar to the way hand and face lotions are used to soften and protect the skin.

However, lip care preparations containing a significant quantity of medication, which are generally used primarily to heal or relieve the symptoms of infections, burns, cuts, or other pathological conditions of the lips, are treated as "drugs." N.J.S.A. 54:32B-8.1 provides an exemption from sales tax for prescription drugs for human use and for over-the-counter drugs and medicines "recommended and generally sold for the relief of pain, ailments, distresses or disorders of the human body." Therefore, lip preparations that are generally sold for medicinal use are exempt from sales tax.

Travel Agency Purchases — Travel agency sales fall into the tax-exempt professional or personal service category insofar as their travel services are concerned. N.J.S.A. 54:32B-2(e)(4)(A). Thus, the amount charged by a travel agent for a trip or vacation is neither subject to sales nor luxury tax in New Jersey, whether or not the customer is separately charged for all the various items that comprise the invoice such as hotels, meals, transportation, amusements, etc.

However, each vendor of taxable services or property in this State who sells such services or property to the travel agent is required to impose and collect sales tax and/or luxury tax on the receipts from that sale. In effect, the travel agent is considered the retail purchaser of such services or property. *Metpath, Inc. v. Taxation Division Director*, 4 N.J. Tax 277 (1982). Thus, a travel agent is not considered a reseller in New Jersey and a New Jersey vendor must collect and remit sales and/or luxury tax on the sale of hotel rooms, meals, and other taxable goods and services to a travel agent.

Debris Removal Incidental to Towing — The State of New Jersey requires that "any towing service under contract to a public or private entity to tow disabled motor vehicles which, after being called upon to remove a disabled motor vehicle, fails to remove from public roads or highways *debris* or material in the area surrounding that vehicle shall be subject to a fine if the debris or material is likely to cause injury to

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a person operating a motor vehicle." N.J.S.A. 39:4-56.8.

The invoices that many tow companies issue are itemized for every charge related to a particular tow job. Insurance companies and most municipalities that incur towing charges require the invoices for towing and recovery services to be fully itemized. This means that a tow company must separately list charges for towing and recovery services from storage fees, sales tax, tolls, administrative charges, and the cleanup of debris at the accident scene.

Separately stated towing charges are exempt from sales tax. N.J.A.C. 18:24-7.12(f). Since the debris removal is an expense incurred directly in connection with the towing service, it can properly be treated as part of the towing receipt, which is exempt from tax. ❑

In Our Courts

Administration

Refund Claims – *Amplicon, Inc. v. Director, Division of Taxation,* decided September 18, 1998; Tax Court No. 000413-98; Motion for Reconsideration denied March 11, 1999, No. M3031-98, aff'd; Appellate Division, No. A-1295-98T5 (March 10, 2000).

The Appellate Division affirmed the Tax Court's ruling that the statutory provision permitting the filing of a refund claim within four years of payment does not apply to the situation where the payment was made pursuant to an assessment and the taxpayer either had an administrative hearing or failed to timely file for a hearing or appeal. (See N.J.S.A. 54:32B-20(b)). The Tax Court noted that audits would never close if extended statute of limitations were permitted as there could be repeated and endless attempts to seek refunds.

Subject Matter Jurisdiction – *Frank Scallo v. Director, Division of Taxation,* decided July 10, 1998, clarified August 26, 1998; Tax Court No. 000387-1998; aff'd; Appellate Division, No. A-7216-97T1 (March 20, 2000).

On June 28, 1996, the Division sent plaintiff a Notice of Finding of Responsible Person Status which granted the right to an administrative hearing if the plaintiff applied for a hearing within 90 days of the notice. On January 16, 1997, the Division filed a certificate of debt against plaintiff. On April 23, 1997, plaintiff requested an administrative hearing challenging his status as a responsible person. Plaintiff's request was denied due to its untimeliness. Thereafter, plaintiff filed a complaint with the Tax Court.

The Tax Court dismissed the complaint for failure to state a claim upon which it could grant relief as plaintiff did not file a timely appeal to Tax Court. Essentially, plaintiff's request for an administrative hearing was untimely as the April 23, 1997, request for a hearing was more than 90 days after the Division's June 28, 1996, mailing of the Notice of Responsible Person Status. Therefore, the Tax Court complaint was also untimely. The Appellate Division affirmed and noted the following:

1. Taxpayers must comply with all statutory requirements to appeal a tax assessment, including time limits for appealing to the Division of Taxation or the Tax Court;

2. If the time limit for an appeal is not met, there is "no inequity in ignoring the substantive claims" of a taxpayer and the complaint must be dismissed;

3. Certificate of Debt instruments are not judgments subject to review;

4. Taxpayers have a duty to know the law because the governing tax statutes "lay out the rights and duties of taxpayers" and their rights and duties can easily be discovered;

5. The 90-day appeal period is a reasonable time to "attack the validity of any assessments" and "it is the responsibility of taxpayers to determine whether the tax assessment is correct" or incorrect, within that time; and

6. The Division of Taxation is encouraged to file dispositive Motions to Dismiss in lieu of answers, where appropriate, which preserves judicial resources and economy.

Gross Income Tax

Statute of Limitations and Death Benefits – *Joyce H. Eiszner v. Director, Division of Taxation,* decided January 21, 2000; Tax Court No. 005058-98.

Plaintiff relocated her residence to Illinois in July 1991, approxi-

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mately ten months after the death of her husband. At the time of his death, the husband was a New Jersey resident who was employed in New Jersey by CPC International, Inc. ("CPC"). CPC provided performance plans consisting of stock and stock options that are contingently granted to current employees. However, if an ex-employee died, retired, became disabled, or left by reason of voluntary separation, the board of directors had discretion as to whether a payment would be made. Immediately after plaintiff's husband's death, the board of directors authorized payment to her husband's estate. The payment was distributed in 1992 and transferred to the husband's revocable trust, a New Jersey Resident Trust. The trust distributed these monies to plaintiff.

Both the husband's estate and trust each filed a 1992 Gross Income Tax Fiduciary Return in 1993. The estate return included the CPC amount received under the performance plan and described it as shares and performance award. The return for the estate identified that the total amount was distributed to the beneficiary trust and listed plaintiff's address, social security number, and her status as a New Jersey nonresident. The trust return reported the entire income from the estate and noted the distribution of that amount to the plaintiff as beneficiary.

The plaintiff filed a 1992 New Jersey Gross Income Tax Nonresident Return on August 10, 1993 seeking a refund of first quarter estimated tax payments inadvertently paid to New Jersey. Attached to the New Jersey return was her 1992 Illinois Individual Tax Return with the "Supplement to Illinois" 1992 Federal Form 1040 U.S. Individual Income Tax Return. Although the New Jersey return reported the net amount of CPC's payment to her husband under "Amount of Gross Income Everywhere," it did not explain the nature and source of the income, it reported no income from New Jersey sources as well as no New Jersey tax due, and the New Jersey Estate and Trust Fiduciary Returns were not attached.

Approximately four years after plaintiff's filing of her 1992 New Jersey nonresident return, the Director sent a Notice of Deficiency for the amount of tax owing on the CPC performance plan payment from which plaintiff timely protested. Thereafter, plaintiff timely appealed the Director's Final Determination upholding the tax assessment on grounds that the Final Determination was issued beyond the three-year statute of limitations and, alternatively, that the CPC payment constituted a death benefit which is excluded from New Jersey gross income.

The Director conceded that the assessment was made beyond the three-year statute of limitations, however, it claimed that the assessment was subject to the six-year statute of limitations under N.J.S.A. 54A:9-4(d). This statute essentially provides that tax assessments may be made within six years after the return was filed where an individual omits more than 25% of the amount of New Jersey income stated in the return without disclosing the nature and amount of the income either "in the return, or in a statement attached to the return, in a manner adequate to apprise the Director of the nature and amount of such item." As there was no doubt that more than 25% of New Jersey income was omitted, the Court focused on whether the statutory disclosure requirement as stated on the return was met.

There was no previous authority interpreting N.J.S.A. 54A:9-4(d). Therefore, plaintiff urged the Court to interpret the disclosure requirement in accordance with rulings concerning the virtually identical section 6501 of the Internal Revenue Code ("Code"). Although the Code and New Jersey statute both require adequate disclosure of both the nature and amount, the Court found that the cited Federal cases focused on the amount component because the state source of the income, the nature component, is irrelevant in the Federal taxing model. Therefore, the Court adopted a common sense approach to determine whether the return's disclosure provided a 'clue' as to the nature of the income omission.

The Court held that the Director's assessment was not time-barred by the three-year statute of limitations because plaintiff's nonresident New Jersey and the attached Illinois and Federal returns disclosure of the source or nature of the income was inadequate to apprise the Director that the income was New Jersey sourced. The Court noted that the required Schedule E was not submitted to the Division along with the Federal return and that the Schedule E would have identified the source of the funds. Furthermore, the Court ruled that the Director has no duty to cross reference different returns filed by different entities not attached to plaintiff's individual return.

Turning to the issue of whether the plan payment constituted an em-

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ployee death benefit paid by or on behalf of CPC by reason of the plaintiff's husband's death, which is excludable from gross income under N.J.S.A. 54A:6-4b, the Court held that it was not a death benefit because death did not trigger the payment. The Court found that the CPC plan made payments as a result of participation in the plan and not necessarily because of death as other employment-terminating factors, disability, retirement, and voluntary separation, also might result in a plan payment. Therefore, the Court ruled that the plan payment constituted deferred compensation under an incentive compensation plan that is includable in plaintiff's gross income.

Employee Status – *Charles & Kathleen Santilli v. Director, Division of Taxation,* decided July 26, 1999; Tax Court No. 5532-98.

The Division determined that plaintiff was an employee based upon the following facts. Plaintiff received two 1994 W-2 statements from Prudential Insurance Company. Both showed Federal wages and FIT withholding, social security wages and withholding, medicare wages and withholding, excess group life insurance costs, employee's 401(k) retirement plan, pension plan, and deferred compensation. The other also showed withholding for NJ HCF and NJ WDF. However, neither W-2 checked the box for statutory employee. On plaintiff's 1994 income tax returns, plaintiff deducted $100 for a Keogh retirement plan and self-employment (SEP) deduction and nothing under the half of self-employment tax, line 25, of the return. Furthermore, plaintiff did not report anything on the self-employment schedule under self-employment tax on the 1994 Federal return except for an entry of zero on line 12 where a handwritten note states refer to the W-2.

Plaintiff claimed that the W-2 was issued because plaintiff was a full-time insurance salesman who was subject to FICA and an employee as defined by Internal Revenue Code section 312(d), but otherwise not considered an employee and was labeled self-employed pursuant to Revenue Ruling 90-93.

The Court ruled that although a W-2 customarily indicates an employer/employee relationship where taxes are withheld, it is not definitive. In making its determination, the Court applied the fourteen-factor test of N.J.A.C. 18:35-7.1(b) and compared the case of *Pope v. Director, Division of Taxation*, 4 N.J. Tax 268 (Tax Ct. 1982). After weighing all the relevant factors, the Court held that during the 1994 tax year plaintiff was not an employee of Prudential. The Court based its decision upon its finding that (1) the contract classified plaintiff as an independent contractor, (2) plaintiff sold insurance for approximately 26 other companies, (3) Prudential did not restrict plaintiff's geographical territory or control who he could hire, (4) plaintiff did not report to a Prudential employee, (5) there was no advertising that indicated plaintiff was a Prudential agent, (6) plaintiff incurred all expenses for his office, supplies, advertising, and entertainment expenses related to selling insurance, (7) Prudential paid plaintiff only a commission for new policies and renewals, (8) Prudential did not cover plaintiff under workmen's compensation insurance, and (9) although Prudential provided plaintiff with benefits, family medical, prescription, and dental, a pension, covered him under a disability plan and a 401(k) where Prudential matched his contribution, that these benefits were an entitlement based upon the amount of sales an agent produced for Prudential.

Local Property Tax

Assessment Affirmed – *Hillcrest Health Service System, Inc. v. Hackensack City*, N.J. Tax Court, November 20, 1998, 18 N.J. Tax 38 (1998).

Hillcrest Health Service System, Inc. is the Title 15A nonprofit parent corporation of a nonprofit subsidiary which operates Hackensack Medical Center, a property tax exempt hospital under N.J.S.A. 54:4-3.6. At issue before the New Jersey Tax Court was the taxable/ exempt status for 1992-1993 of an aggregated lot and four-story, 60,000 sq. ft. building being constructed on it, owned by Hillcrest but leased to the Medical Center. For tax year 1992 the assessor calculated a partial assessed value of $2,442,700 and upon completion of the structure applied a six month prorated added assessment of $1,310,400; for 1993 (a revaluation year) the assessed value imposed was $4,557,100.

With respect to the 1992 partial assessment, Hillcrest contended that because the aggregated lot had, as separate lots, been used as parking space for the Medical Center, those lots and by extension the remaining land and incomplete structures should be property tax exempt based on their use for hospital purposes. As concerned

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the 1992 added assessment, Hillcrest maintained that hospital use existed as of completion of the improvements thereby voiding the added assessment. Finally regarding the 1993 regular assessment, Hillcrest asserted that the completed improvements were in actual use for hospital purposes on the assessment date and therefore qualified for tax exemption.

The City's main argument against exemption was that Hillcrest, the property owner, as distinguished from the Medical Center, the property user, was not organized exclusively for hospital purposes but rather a wide-ranging variety of health care activities and that certain activities, such as home care services, were distinct from hospital operations.

Per Hillcrest's Certificate of Incorporation, Hillcrest was "…at all times exclusively operated for the benefit of, to perform the functions of, or to carry out the purpose of, Hackensack Medical Center, Hackensack Health and Hospital Foundation, and other affiliated or related organizations, all of which are publicly supported health care organizations organized for the purpose of establishing, maintaining, sponsoring and promoting activities relating to the improvement of continuous human health and well-being…." Besides the Medical Center, Hillcrest's subsidiaries included Hackensack Medical Center Foundation, Inc., fundraising coordinator; Essex Parking Co., hospital parking garage operator; Bergen Home Health Services, personal in-home care provider; Bergen Health Management System, Inc., day-care center operator for hospital employees' children; Hillcrest Properties, Inc., real estate holding company; and Bergen Health Systems, hospital energy consumption efficiency analyst.

Except for that portion of the building utilized as an open-to-the-public fitness center, Hackensack City did not dispute that the building was used for hospital purposes once occupied, nor did it dispute that use on the completion date was a determinant of a valid added assessment. However, in addition to exclusive organization, the City argued that the previous exempt hospital parking use was independent from the later use and did not continue during the construction period.

Paraphrasing the Tax Court's reasoning, when the previously separate parking lots ceased to support the main medical facility its exempt use was interrupted. Even if the new building were exempt, it was a different building on a different site from which parking was formerly provided and as land can be nontaxable only in connection with an exempt building, the lot in question could be exempt only upon completion of the new building. Since a continuing exempt use for the former parking area could not be established, an exempt claim by extension for other property being constructed failed. Further, even where the character of a building in progress and its adaptation to exempt use are evident, it is only actual use which permits exemption. (*Holy Cross Precious Zion Glorious Church of God v. Trenton City*, 2 N.J. Tax 352 (1981)). The Court decided as well that the fitness center, available to the general public for a fee, was used more than incidentally for other than hospital purposes and was not eligible for exemption.

Also contested was qualifying ownership. The building of the new facility was financed by Hillcrest and leased to the Medical Center to save the hospital from incurring debt so that ownership and use were clearly divided between the parent corporation and its subsidiary.

Guided by *Claremont Health Systems, Inc. v. Point Pleasant Bor.*, 16 N.J. Tax 604 (1997), this Tax Court held "Where the user of the property has only a leasehold interest, a hospital purposes exemption is unavailable." And the Tax Court in *Mega Care, Inc. v. Union Twp.*, 15 N.J. Tax 566 (1996) concluded that the requirement the property owner be organized for hospital purposes and the requirement the exemption

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claimant be the property owner could not be satisfied unless the affiliate owning the property was restricted by its own incorporation certificate to activities supporting and integrated with those of the hospital. In this case, Hillcrest's operations were not, by its own certificate of incorporation, restricted to support Hackensack Medical Center. Therefore, property owned by Hillcrest was not exempt although it was used by the hospital. Both the 1992 partial and added assessment and the 1993 full year assessment were affirmed.

Sales and Use Tax

Adequacy of Books and Records – *Seventeen Thirty Corp. v. Director, Division of Taxation,* decided October 4, 1999; Tax Court No. 3648-97.

In a prior hearing, April 16, 1999, the Court held that the three-dollar minimum purchase requirement to enter plaintiff's video booth area constituted an admission charge subject to sales tax. This opinion concerns the total amount of plaintiff's sales tax liability. Previously, the Court ruled that the burden of proving that the total token sales were not subject to sales tax was upon plaintiff, the person required to collect tax.

The Division assessed sales tax on all of plaintiff's token sales. Plaintiff argued that the Division's methodology was incorrect because (1) tokens were used to purchase merchandise where sales tax was collected, (2) the $3 minimum token purchase requirement was only in effect for ten months of 1993, and (3) only three or four people paid the minimum purchase requirement as good customers or regular patrons were not required to buy a minimum token purchase. Plaintiff produced only verbal testimony regarding the aforementioned allegations. The Court found that the testimony was nothing more than "bare assertions" and cited the *Ridolfi v. Director, Division of Taxation*, 1 N.J. Tax 198, 202-203 (Tax Ct. 1980) ruling that naked assertions are insufficient to rebut the Director's presumption of correctness. The Court quoted N.J.S.A. 54:32B-19, which sets forth the consequences of failing to maintain adequate books and records. Essentially, the statute permits the Director to determine the amount of tax due from any available information. Therefore, the Court upheld the Director's sales and use tax assessment on all plaintiff's token sales.

Sale for Resale/Closing Agreements – *Adamar of New Jersey t/a Tropicana Casino and Resort v. Director, Division of Taxation,* 17 N.J. Tax 327 (Tax 1998), aff'd in part and rev'd in part; Appellate Division; No. A-3974-97T3 (February 25, 2000).

Plaintiff is a casino that applied for and was judicially denied a sales tax refund concerning tax paid on purchases of both alcoholic and nonalcoholic beverages provided to patrons on a complimentary basis. As to the complimentary alcoholic beverages, the Appellate Division cited its decision in *GNOC Corp.* (see below) as controlling. With respect to the complimentary nonalcoholic carbonated beverages, this Court cited its opinion in *Boardwalk Regency* (see below) as controlling.

Sale for Resale/Closing Agreements – *Boardwalk Regency Corporation t/a Caesars Atlantic City Hotel & Casino v. Director, Division of Taxation,* 17 N.J. Tax 331 (Tax 1998), rev'd 18 N.J. Tax 328 (App. Div. 1999).

The Division assessed use tax on plaintiff's purchases of nonalcoholic carbonated beverages purchased with an ST-3 sales tax resale certificate that were provided as complimentary drinks to its patrons and provided to its own employees during working hours for the period January 1, 1991 to September 30, 1994.

During the periods at issue, nonalcoholic beverages were subject to sales and use tax. In 1981, the Director entered into a closing agreement in accordance with N.J.S.A. 54:53-1 with the casino industry that was subsequently amended in 1986 and 1988. The 1981 agreement provided, *inter alia*, as follows:

> No sales tax will be imposed in the provision of complimentary meals. However, a use tax pursuant to N.J.S.A. 54:32B-6 will be imposed upon the "cost" of a meal. For these purposes, the cost of the meal would be deemed to be 25% of the amount these meals are sold to the public by the casino. However, no sales and/or use tax will be imposed upon the provision of complimentary liquor.

The 1986 agreement provided, *inter alia*, that there would be no imposition of sales or use tax on complimentary meals and defined complimentary meal to mean non-

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cash payments for food or beverage. The Appellate Division found that "[t]he 1986 and 1988 agreements abandoned an effort to collect taxes for fully complimentary meals in exchange for an agreement by the plaintiff to collect and pay the sales tax for partially 'comped' meals and beverages."

Addressing the issue of whether the purchase of nonalcoholic beverages constituted a nontaxable sale for resale, the Appellate Division upheld the Tax Court's ruling that there was no resale of nonalcoholic beverages that were furnished to casino patrons and employees on a complimentary basis because there was "legally insufficient consideration."

On the issue of whether the agreement bars the Director from taxing the purchase of the nonalcoholic carbonated beverages at issue, the Tax Court held that the provision was invalid as the Director cannot compromise tax liabilities under N.J.S.A. 54:53-1 where they are not limited in time and are disadvantageous to the State. On appeal, the Appellate Division reversed and ruled that the Director's agreements must be deemed presumptively valid as he has broad discretion to settle tax disputes. The Court remanded the case for a factual finding of the scope of the settlement agreements as to whether the agreements addressed and included nonalcoholic beverages served complimentary with a meal and/or without a meal to plaintiff's customers and served complimentary to plaintiff's employees.

Sale for Resale/Closing Agreements – *GNOC Corp. t/a The Grand v. Director, Division of Taxation,* 17 N.J. Tax 327 (Tax 1998), aff'd. (App. Div. 2000); No. A-4045-97T3.

In 1980, alcoholic beverages were statutorily exempted from sales and use tax under N.J.S.A. 54:32B-8.34. In 1981, the Director entered into a closing agreement, in accordance with N.J.S.A. 54:53-1, with the casino industry that was subsequently amended in 1986 and 1988. The 1981 agreement provided, *inter alia*, as follows:

> No sales tax will be imposed in the provision of complimentary meals. However, a use tax pursuant to N.J.S.A. 54:32B-6 will be imposed upon the "cost" of a meal. For these purposes, the cost of the meal would be deemed to be 25% of the amount these meals are sold to the public by the casino. However, no sales and/or use tax will be imposed upon the provision of complimentary liquor.

The Court quoted the Appellate Division's interpretation of the amendments to the original agreement as follows: "[T]he 1986 and 1988 agreements abandoned an effort to collect taxes for fully complimentary meals in exchange for an agreement by the plaintiff to collect and pay the sales tax for partially 'comped' meals and [nonalcoholic] beverages." *Boardwalk Regency Corporation t/a Caesars Atlantic City Hotel & Casino v. Director, Division of Taxation,* 17 N.J. Tax 331 (Tax 1998), rev'd 18 N.J. Tax 328, 333 (App. Div. 1999). All the agreements contained a statutorily required clause stating that specific subsequent legislation would supersede the agreement and that the Division and the casinos would no longer be bound.

Effective July 1, 1990, the legislature repealed the N.J.S.A. 54:32B-8.34 sales and use tax exemption for retail sales of alcoholic beverages. Thereafter, the Division assessed use tax on plaintiff's tax-exempt, sale for resale purchases of alcoholic beverages that were provided as complimentary drinks to its patrons for the period January 1, 1991 to September 30, 1994.

Addressing the issue of whether the purchase of alcoholic beverages constituted a nontaxable sale for resale, the Appellate Division upheld 8the Tax Court's ruling that there was no resale of alcoholic beverages furnished to casino patrons on a complimentary basis because there was "legally insufficient consideration."

Concerning the issue of whether the agreement bars the Director from taxing the complimentary alcoholic beverages, the Tax Court ruled that purchases of alcoholic beverages provided as complimentary drinks were subject to sales and use tax because the agreement only reiterated the then current law that alcoholic beverages were exempt from sales and use tax. The Appellate Division affirmed but disagreed with the Tax Court's reasoning. The Appellate Division held that subsequent legislation repealing the alcohol exemption superseded the agreement.

Plaintiff's claim that specific legislation taxing "complimentary alcoholic beverages" was required to supersede the agreement was rejected by the Court. The Appellate Division ruled that the provi-

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sion "[h]owever, no sales or use tax will be imposed upon the provision of complimentary liquor," was only inserted into the 1981 agreement to clarify the preceding sentence that alcoholic beverages would not be included in computing the 25% cost of a meal that was subject to sales/use tax. The Appellate Division reasoned that a meal could be interpreted to include a beverage and as alcoholic beverages were not then subject to sales/use tax they should be excluded from the tax computation on complimentary meals. Therefore, the Appellate Division ruled that specific legislation relating to "complimentary alcoholic beverages" was not required.

Maintenance and Servicing – *L&L Oil Service, Inc. v. Director, Division of Taxation,* decided January 21, 2000; Tax Court No. 6341-97.

Plaintiff was in the business of pumping waste oil, sludge, and antifreeze from storage tanks, ranging in size from 276 to 1,000,000 gallons, located on both commercial and residential properties into its trucks. The waste materials were then transported to its facility where the waste was either purified or processed for resale. Plaintiff's invoices usually charged a lump sum price for pumping and removal without charging sales tax. It should be noted that a few invoices included a separate transportation fee and a few charged sales tax. At issue in this case was whether or not plaintiff's services constituted maintenance or servicing which is subject to sales tax.

The Court held that plaintiff's waste removal services constituted maintenance or servicing because the removal allowed the tanks to be used again for their intended purpose of collecting waste. Therefore, the Court ruled that its customer's payments were taxable under the Sales and Use Tax Act.

The Court rejected plaintiff's alternative theories of nontaxability. First, the Court ruled that fees charged for removal did not constitute the acquisition of raw materials for an integrated waste removal, processing and resale operation because customers paid plaintiff only for the services of pumping and removal. Second, the Court ruled that simply because plaintiff did not have a license from the Department of Environmental Protection to perform maintenance or repair involving hazardous waste contained in storage tanks, even if such license was required, that did not make the services nontaxable because the DEP Tank Statutes and the Sales and Use Tax Act are not *in pari materia*. Third, the Court rejected plaintiff's argument that the services were exempt because they involved the removal and transportation of wastes and would be exempt under the transportation exemption. Fourth, the Court ruled that plaintiff's services did not constitute a capital improvement because there was no evidence that the value of the real property increased as a result of its services and plaintiff's own expert testified that the services did not improve the storage tank's condition. Finally, the Court refused to waive interest on the basis that plaintiff relied on erroneous advice from the Division. The Court found that none of plaintiff's inquiry letters fully and accurately described the nature of plaintiff's operations and neither the Division's correspondence nor the *New Jersey State Tax News* even suggested that plaintiff's actual maintenance and service operations were exempt from sales tax. ❑

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In Our Legislature

Corporation Business Tax

Insolvent HMO Assistance — P.L. 2000, c.12 (signed into law on April 6, 2000) establishes the "New Jersey Insolvent Health Maintenance Organization Assistance Fund Act of 2000" which provides for payment of certain individual and provider claims against HIP Health Plan of New Jersey, Inc. and American Preferred Provider Plan, Inc.

The law also provides that a member organization may offset against its corporation business tax liability an amount of not more than 10% of any assessment for each of the five privilege periods beginning on or after the third calendar year commencing after the assessment was paid, except that no member organization may offset more than 20% of its corporation business tax liability in any one year. This legislation became effective upon enactment and applies only to the insolvency of HIP Health Plan of New Jersey, Inc. and American Preferred Provider Plan, Inc.

Local Property Tax

Annual Property Tax Deduction Increase — P.L. 2000, c.9 (signed into law on March 30, 2000) implements the State constitutional amendment approved by New Jersey voters on November 2, 1999, that increases the annual property tax deduction from $50 to $250 for certain veterans and their unmarried surviving spouses.

The increase will be phased-in over four years to $100 in calendar year 2000, $150 in calendar year 2001, $200 in calendar year 2002, and $250 in calendar year 2003 and thereafter. This legislation became effective upon enactment. ❑

tax calendar

july

2000

SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

July 10

CWIP-1 **Cigarette Tax—**Informational report by wholesalers

CWIP-2 **Cigarette Tax—**Informational report by wholesalers

July 17

CBT-100 **Corporation Business Tax—**Annual return for accounting period ending March 31

continued

July 17 - continued

CBT-150 **Corporation Business Tax—**Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

July 20

CR-1 & CNR-1 **Cigarette Tax—**Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D **Motor Fuels Tax—**Distributor's monthly report of gallons of fuel sold or used

GA-1J **Motor Fuels Tax—**Jobber's monthly report of gallons of fuel

MFT-10 **Motor Fuels Tax—**Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 **Spill Compensation and Control Tax—**Monthly return

ST-20 **New Jersey/New York Combined State Sales and Use Tax—**Quarterly return

continued

July 20 - continued

ST-50 **Sales and Use Tax—**Quarterly return

ST-250 **Combined Atlantic City Luxury Tax/State Sales Tax—**Monthly return

ST-350 **Cape May County Tourism Sales Tax—**Monthly return

ST-450 **Sales and Use Tax–Salem County—**Quarterly Return

TP-20 **Tobacco Products Whole-sale Sales and Use Tax—** Monthly return

UZ-50 **Combined State Sales Tax/ Urban Enterprise Zone Sales Tax—**Monthly return

July 25

PPT-40 **Petroleum Products Gross Receipts Tax—**Quarterly return

July 31

NJ-927 & NJ-927-W **Gross Income Tax—**Employer's quarterly return

august

SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

2000

August 10

CWIP-1 **Cigarette Tax—**Informational report by wholesalers

CWIP-2 **Cigarette Tax—**Informational report by wholesalers

August 15

CBT-100 **Corporation Business Tax—** Annual return for accounting period ending April 30

continued

August 15 - continued

CBT-150 **Corporation Business Tax—** Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

NJ-500 **Gross Income Tax—** Employer's monthly remittance

August 21

CR-1 & CNR-1 **Cigarette Tax—**Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D **Motor Fuels Tax—**Distributor's monthly report of gallons of fuel sold or used

GA-1J **Motor Fuels Tax—**Jobber's monthly report of gallons of fuel

MFT-10 **Motor Fuels Tax—**Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 **Spill Compensation and Control Tax—**Monthly return

continued

August 21 - continued

ST-21 **New Jersey/New York Combined State Sales and Use Tax—**Monthly return

ST-51 **Sales and Use Tax—**Monthly remittance

ST-250 **Combined Atlantic City Luxury Tax/State Sales Tax—**Monthly return

ST-350 **Cape May County Tourism Sales Tax—**Monthly return

ST-451 **Sales and Use Tax–Salem County—**Monthly Return

TP-20 **Tobacco Products Wholesale Sales and Use Tax—** Monthly return

UZ-50 **Combined State Sales Tax/ Urban Enterprise Zone Sales Tax—**Monthly return

August 25

PPT-41 **Petroleum Products Gross Receipts Tax—**Monthly return

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september

SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

2000

September 11

CWIP-1 **Cigarette Tax—**Informational report by wholesalers

CWIP-2 **Cigarette Tax—**Informational report by wholesalers

September 15

CBT-100 **Corporation Business Tax—** Annual return for accounting period ending May 31

continued

September 15 - continued

CBT-150 **Corporation Business Tax—** Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

NJ-500 **Gross Income Tax—** Employer's monthly remittance

September 20

CR-1 & CNR-1 **Cigarette Tax—**Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D **Motor Fuels Tax—**Distributor's monthly report of gallons of fuel sold or used

GA-1J **Motor Fuels Tax—**Jobber's monthly report of gallons of fuel

MFT-10 **Motor Fuels Tax—**Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 **Spill Compensation and Control Tax—**Monthly return

continued

September 20 - continued

ST-21 **New Jersey/New York Combined State Sales and Use Tax—**Monthly return

ST-51 **Sales and Use Tax—**Monthly remittance

ST-250 **Combined Atlantic City Luxury Tax/State Sales Tax—**Monthly return

ST-350 **Cape May County Tourism Sales Tax—**Monthly return

ST-451 **Sales and Use Tax–Salem County—**Monthly Return

TP-20 **Tobacco Products Whole-sale Sales and Use Tax—** Monthly return

UZ-50 **Combined State Sales Tax/ Urban Enterprise Zone Sales Tax—**Monthly return

September 25

PPT-41 **Petroleum Products Gross Receipts Tax—**Monthly return

from the director's desk

Tax Season Assistance

As the statistics below show, the Division of Taxation provided assistance to hundreds of thousands of New Jersey taxpayers during the tax season from January 1, 2000 through April 17, 2000.

- **Call Center**
  Calls answered—210,514
- **NJ TaxFax**
  Calls received—44,500
- **ARIS (Automated Refund Inquiry System)**
  Calls received—154,673
- **HR (Homestead Rebate) InfoLine**
  Calls received—23,452
- **TaxTalk (Automated information)**
  Calls received—22,501
- **Automated Forms Request System**
  Calls received—77,104
- **Taxation Home Page**
  Visits to Division's World Wide Web site—4,795,000
- **Taxation Building Lobby**
  Taxpayers assisted—8,700
- **Regional Offices**
  Taxpayers assisted—35,000